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PLANNING & CO-ORDINATION DEPARTMENT

RESOLUTION

The 7th August 2007

Sub: - Orissa Public Private Partnership (PPP) Policy- 2007

INTRODUCTION :

The future development of the country hinges on the development of its infrastructure and efficient delivery of its services. The Planning Commission, Government of India estimates that around **US\$320 billion (14, 50,000 Cr. INR)** is likely to be invested in the infrastructure sector over the 11th Plan. A large part of this investment is to come from the private sector with Public Private Partnership (PPP) mode as one of the preferred routes. **The PPP approach is best suited for the infrastructure sector as it supplements scarce public resources, creates a more competitive environment and helps to improve efficiencies and reduce costs.** To achieve this goal, Government of Orissa has come out with this Public Private Partnership Policy.

2. THE POLICY OBJECTIVES :

The key objective of this policy is to:—

1. Leverage State and Central Government funds, support private investment and to create a conducive environment so as to utilize the efficiencies, innovativeness and flexibility of the private sector to provide better infrastructure and service at an optimal cost.
2. Setting up of a transparent, consistent, efficient administrative mechanism to create a level playing field for all participants and protect interest of all stakeholders.
3. To prepare a shelf of projects to be offered for PPP and take them forward with assistance of the owner departments through a transparent selection process.
4. Putting in place an effective and efficient institutional mechanism for speedy clearance of the projects.

5. Provide necessary risk sharing framework in the project structure so as to assign risks to the entity most suited to manage them.
6. Create a robust dispute redressal mechanism / regulatory framework for PPP projects.
7. To provide the required viability gap funding (VGF) where the essential projects are intrinsically unviable.
8. To create “Orissa Infrastructure Development Fund (OIDF)” to facilitate implementation of the objectives of the Policy.

3. INFRASTRUCTURE SECTORS

The infrastructure sectors covered by the policy, which may be modified from time to time, are as follows:

1. Roads, Bridges and Bypass
2. Ports and Harbours
3. Airports, Airstrips and Heliports
4. Inland container depots and logistics hubs
5. Industrial parks, Theme Parks like Information Technology (IT)/ Bio-Technology (BT) Parks, Knowledge Parks, Special Economic Zones and Townships.
6. Water supply, Treatment and Distribution
7. Power Generation, Transmission and Distribution Systems
8. Solid waste Management
9. Sewerage & Drainage
10. Inland water Transport
11. Tourism and related infrastructure
12. Healthcare Facilities
13. Education
14. Trade fair, convention, exhibition, cultural centers
15. Urban infrastructure including entertainment and recreational facilities
16. Urban Transportation Systems / Improvement of Public Transport Facilities including construction of state of art bus-stands.

17. Railway & related projects

18. Agriculture Production and Marketing

19. Any other sector / facility as may be included by the Government

4. INSTITUTIONAL ARRANGEMENT :

The Government of Orissa recognizes the requirement for an effective and efficient institutional mechanism and therefore constitutes the requisite committees and empowered groups for furthering the objectives of the Policy.

4.1 High Level Clearance Authority

A High Level Clearance Authority (HLCA) under the chairmanship of Chief Minister shall be constituted in respect of all infrastructure projects being undertaken in PPP mode. All PPP Projects having investment of over Rs. 500 Crore will require approval of HLCA. Special Secretary, PPP shall be the member-convenor of HLCA.

4.2 Empowered Committee on Infrastructure (ECI)

Government of Orissa shall constitute Empowered Committee on Infrastructure (ECI) consisting of a group of Secretaries under the Chairmanship of the Chief Secretary, Government of Orissa for facilitating infrastructure development in the State under PPP. Special Secretary, PPP shall be the member-convenor of ECI.

4.2.1. Role of the ECI

The ECI shall be the nodal agency to co-ordinate all efforts of the State Government regarding development of infrastructure sectors, involving private participation and funding from various sources.

4.2.2. Powers and Functions of the ECI

The Powers and Functions of the ECI would include:

- (a) To prioritize, approve shelf of projects, sanction, authorize expenditure for PPP projects.
- (b) To adopt, adapt and develop Model Concession Agreements (MCA) for various sectors.
- (c) To recommend projects for Viability Gap Funding (VGF).
- (d) Manage the "Orissa Infrastructure Development Fund (OIDF)" proposed to be created to facilitate infrastructure development, to recommend projects alongwith amount required from the fund to meet the objectives of this Policy.

- (e) To deliberate and recommend to HLCA the final bids for approval of the projects above Rs. 500 Cr.
- (f) To deliberate and recommend to HLCA any special grants and concessions.
- (g) To coordinate the efforts of other departments for the furtherance of the objectives of this Policy.
- (h) To inspect, visit, review and monitor any PPP Projects regarding its implementation, execution, operation and management.
- (i) To recommend en-action of special legislation for formation of appropriate regulatory mechanism/robust grievance redressal mechanism as may be required for the project.
- (j) To sanction PPP Projects and approval of Concession Agreements for projects with investments upto Rs.500 Cr.

4.3. PPP Cell and the Technical Secretariat

The ECI shall be assisted by a PPP Cell in the P&C Department in undertaking the functions specified under this policy & shall be under the direct supervision of Chief Secretary.

The PPP Cell is to be assisted by a Technical Secretariat.

The fund requirements for furthering the objectives of the Policy through the PPP cell shall be initially met through budgetary support.

4.3.1. Functions of the PPP Cell and Technical Secretariat (TS)

The Functions of the PPP Cell and its Technical Secretariat would include:—

- (a) To identify, conceptualize and create a shelf of projects in consultation with the owner department/agency and recommend approval of such projects for PPP from time to time to the ECI.
- (b) To assist different government departments/agencies in preparing pre-feasibility reports by itself or through consultants.
- (c) To assist the respective departments/agencies for preparing Detailed Project Reports.
- (d) To appoint / select consultants to take the projects upto selection of developer stage in consultation with the concerned department.
- (e) To help respective departments/agencies to conduct the bidding process for appointment of developers.

- (f) To interact with the Planning Commission, Government of India (GoI) and other funding agencies like World Bank for obtaining approval under VGF and any other fund created for such purpose.
- (g) To recommend the requirement of multilateral/bilateral funding for furthering the objectives of the Policy.
- (h) To act as the nodal agency for capacity building for PPP in the state. To further this function it shall conduct/recommend exposure visits and training programs on PPP.
- (i) To recommend appropriate regulatory mechanism / robust grievance redressal mechanism as per requirement of the project.
- (j) To recommend requirements from the PPP Fund for development of projects, gap funding and for any other requirement for furthering the objectives of this Policy. Formulation and recommendation of any legislation if required for creation, administration and monitoring of the Fund.
- (k) To develop internal evaluation guidelines by PPP Cell in consultation with the respective departments/agencies to evaluate and assess the projects whether the projects are to be funded by the State Government through multilateral/bilateral funding and/or implemented with Private Sector participation.

4.3.2. Creation of PPP Cell in Line Departments

PPP Cells shall be set up in all line departments/agencies to co-ordinate with the State PPP Cell and to take forward the PPP initiatives.

5. PROJECT IDENTIFICATION AND APPROVAL PROCESS :

5.1. Project Identification/Conceptualization

State Government Departments/ Agencies in consultation with PPP Cell shall identify, conceptualize infrastructure projects to be developed in the State and place before ECI through PPP Cell. The ECI shall prioritize projects based on demand and supply gaps, interlinkages and any other relevant parameters and **create a project shelf**.

5.2. Preparation of Preliminary Feasibility Report

State Government Departments/Agencies with assistance of the Technical Secretariat will prepare the Preliminary Feasibility Report for the identified projects. The preliminary feasibility report should establish the need for the project, broad level project cost estimation and indicative commercial viability of the proposed project including preliminary engineering studies if any.

5.3. Approval of Projects for development under PPP Mode

On receipt of the preliminary feasibility report from the State Government Department/Agency by the ECI through PPP Cell, the ECI shall review the proposal based on its merit, grant its in-principle approval or suggest modifications/changes to the proposal. Projects with investment beyond Rs. 500 Cr. will be recommended to HLCA for its approval.

6. PREPARATION OF DPR AND SELECTION OF DEVELOPERS

6.1. Preparation of DPR and Selection of Developers.

On obtaining approval of ECI the respective Government Department/agency shall prepare / get prepared the Detailed Project Reports (DPR) if required or if the DPR is to be prepared by the project developer launch the competitive bidding process for selection of developers. The Technical Secretariat shall assist Government departments/agencies in selection of the Project developer and the entire selection and bidding process including preparation of the various contractual, concession and bid documents. The bid process shall be fully transparent and conforming to best practices in the Industry.

6.2. Approval of Developer

The outcome of the bidding process along with required concessions to be granted will be placed before ECI / HLCA as the case may be for final approval before award of the project to the developer.

In cases where VGF assistance is sought from GoI the proposal to ECI/HLCA will be put up after receipt of final sanction of VGF assistance from GoI.

6.3. Development through Special Purpose Vehicles (SPVs)

SPVs shall be formed as and when required to carry forward and realize the objectives of this Policy and get various clearances and permissions in the SPVs to speed-up the project.

6.4. Review & Monitoring of the Projects

ECI will review and monitor the progress of PPP projects regularly. All the Departments / Agencies carrying out PPP projects will keep informed the PPP Cell regarding the latest development.

7. STATE SUPPORT :

The State Government will formulate sector specific policies wherever required for providing specific incentives and also establish mechanism for tariff setting, pricing, arbitration, safety and operational standards etc. It also envisages coordination across infrastructure sectors and dovetailing of sectoral plans.

State Support would include:

7.1. Legislative Support

Necessary legislative support as and when required shall be provided.

7.2. Administrative Support

State Government shall offer necessary administrative support to all the infrastructure projects developed in the State which would include:—

- (a) To facilitate obtaining all State & Central Government clearances as may be required for the project;
- (b) To facilitate all rehabilitation & resettlement activities in case so required as per existing Rehabilitation and Resettlement Policy of Government including shifting of utilities wherever required;
- (c) To facilitate the process of availing benefits under various Central Government and State Government Schemes (as may be applicable) to enhance the viability of projects under implementation;
- (d) To facilitate provision of supply of power and water at projects site; and
- (e) To facilitate acquiring of land necessary for the project.

7.3. Financial Support

In addition to the viability gap funding available under different schemes of Government of India, the State Government may also contribute for the remaining portion of Viability Gap as emerged from the open bid in cash or through other concessions to help the emergent infrastructure projects attain viability and get implemented.

8. ORISSA INFRASTRUCTURE DEVELOPMENT FUND :

The Government shall establish a fund to be called “**Orissa Infrastructure Development Fund (OIDF)**” and may levy cess / tax separately to augment this fund. The fund will be utilized for building up the required infrastructure and the works to be undertaken would include.

- (a) Taking up of technical and financial pre-feasibility and feasibility studies, preparation of reports and bid documents and any other activities that need to be undertaken prior to offering proposed infrastructure projects for private sector participation including facilitation to select projects to assess viability gap funding and other such schemes from Government of India.
- (b) To provide direct financial support to the projects for enhancing project viability as considered by the Government on recommendation of ECI or HLCA.
- (c) For capacity building and training.
- (d) For any other purposes in pursuance of this act and building of infrastructure in the State.

8.1. Operation of Fund

The fund will be administered and managed by the ECI. Detailed guidelines for the same shall be issued separately.

9. PROTECTION OF STAKEHOLDER RIGHTS:

The rights of the users, developers, the local community and lenders, together referred to as stakeholders shall be protected. The various mechanism considered include:—

- (a) Adequate legislative and administrative support for successful and timely implementation and operation of the project while safeguarding the interest of local communities.
- (b) Adequate legislative and administrative support for levy and collection of user charges.
- (c) Adopting, adapting and developing MCAs and incorporating in all project documents the requisite clauses for protection of the rights of all stakeholders.
- (d) Structuring of concession agreements incorporating service standards, revenue streams and levy of equitable user charges also providing for exempt category of users wherever applicable.
- (e) Setting up of Independent Regulators appellate forums and other robust dispute redressal mechanism.

ORDER

Ordered that the Resolution be published in next extraordinary issue of the *Orissa Gazette* and copies thereof be forwarded to all Departments of Government, all Heads of Departments and Accountant General, Orissa.

By Order of the Governor

A.K. TRIPATHY

Chief Secretary, Orissa